GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services -Labour Factories Boilers & Insurance Medical Services Department - Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam, under order of transfer as Welfare commissioner, AP Labour welfare board - Certain grave nature of irregularities noticed and Failed to discharge his duties as Assessing Officer as per provision made under Andhra Pradesh Building and other Construction Workers Welfare Board Act- Disciplinary proceedings initiated under Rule (20) of Rule A.P. Civil Services (CCA) Rules, 1991 - Articles of Charges -Issued

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LABOUR FACTORIES BOILERS AND INSURANCE MEDICAL SERVICES (LAB.I) DEPARTMENT

G.O.Rt.No. 120. **Dated:25.01.2024**

Read the following:

From the Commissioner of Labour, AP,Vijayawada,Lr.No.A1/8264278/ 2023, Dated: 04.01.2024.

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ORDER:

It is proposed to hold an inquiry against Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam, under order of transfer as Welfare commissioner, AP Labour welfare board in accordance with the procedure laid down in Rule (20) of Rule A.P. Civil Services (CCA) Rules, 1991.

2. The substance of the imputations of the misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I).A statement of imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure-II).A list of documents by which, and a list of witnesses by whom, the articles of charges are proposed to be sustained are enclosed (Annexure III).

3. Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam, is directed to submit his written statement of defense within 15 days of the receipt of this order.

4. Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam,is informed that an inquiry will be held only in respect of those articles of charges as are not admitted. He should therefore, specifically admit or deny each articles of charge.

5. Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam is further informed that, if he does not submit his written statement of defense on or before the date specified in para 3 above or otherwise fails or refuses to comply with the provisions of Sub Rule (1) of Rule 3 of A.P. Civil Services (Conducts) Rules, 1964 or the orders / directions issued in pursuance of the said rules, the Inquiring Authority will hold the Inquiry against him exparte.

6. Attention of Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam is invited to Rule 24 of the AP Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to him service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with these proceedings, it will be presumed that Sri M.Rama Rao, Joint Commissioner of

Labour Visakhapatnam, is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 24 of the AP Civil Service (Conduct) Rules, 1964.

7. Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam, is specifically informed, that this orders does not preclude the disciplinary Authority to frame fresh charges, if any irregularities are noticed during the course of disciplinary action.

8. The receipt of this order shall be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

DR. M. HARI JAWAHARLAL
SECRETARY TO GOVERNMENT

To
Sri M.Rama Rao, Joint Commissioner of Labour Visakhapatnam through the Commissioner of Labour, AP, Vijayawada.
The Commissioner of Labour, Andhra Pradesh, Vijayawada.
SF/SC.

//FORWARDED :: BY ORDER//

G.Gnanaprasad
SECTION OFFICER

ANNEXURE-1

Draft statement of Article of Charges framed against Sri M.Rama Rao. the then Joint Commissioner of Labour, Visakhapatnam

Article-I

That the said Sri M.Rama Rao while working as Joint Commissioner of Labour, Visakhapatnam has assessed the cost of construction as Rs.8,45,78,394/- and issued Cess Assessment order vide no. A/3308/2017, Dt. 25.11.2021 for an amount of Rs.8,45,784/- to M/s MK Builders and Developers, Visakhapatnam. In the said assessment order, the then Joint Commissioner of Labour, Vishakapatnam has mentioned that, the employer has already paid Rs.1,00,000/-and instructed for the payment of balance Cess amount of Rs.7,45,784/-. Again he has issued Show Cause Notice to the same employer vide Notice Dated A/3308/2017, Dt.13.11.2022.The then Joint Commissioner of Labour, Vishakapatnam has again issued Cess assessment order(Revised) on 09.09.2022 by reiterating the earlier order and directed to pay the Cess amount of Rs.7,45,784/- to the same employer. Again he has issued notice under Sec. 4 (2) notice under BOCW Cess Act, vide A/3308/2017, Dt. 25.01.2023 and finally a recovery petition was filed vide A/3308/2017 dated 11.10.2023 for an amount of Rs. 8,45,784/- instead of Rs.7,45,784/- as the employer has already paid Rs.1,00,000/- and thereby the then JCL, Visakhapatnam failed to display devotion and integrity to duty therefore committed misconduct and hence this charge.

Grounds:

As per the instructions of the Commissioner of Labour, an inspection team headed by the Joint Commissioner of Labour, Head Office along with Superintendent and certain ministerial staff inspected the O/o of Joint Commissioner of Labour, Visakhapatnam on 05.12.2023 to 08.12.2023 and observed certain lapses in issuing notices to all the employers/contractors of the establishments under BOCW Act, 1996 & BOCW Cess Rules,1998 on collection of Cess. Subsequently the JCL(FAC), Visakhapatnam has submitted a detailed note on 14.12.2023 and a rejoinder dated 18.12.2023 on the action taken by the then Jt.Commissioner of Labour, Visakhapatnam, on the Vigilance Alert notes the above lapses are noticed.

Sri M.Rama Rao while working as Joint Commissioner of Labour, Visakhapatnam has assessed the cost of construction as Rs.8,45,78,394/- and issued Cess Assessment order vide no. A/3308/2017, Dt. 25.11.2021 for an amount of Rs.8,45,784/- to M/s MK Builders and Developers, Visakhapatnam. In the said assessment order, the JCL has mentioned that, the employer has already paid Rs.1,00,000/-and instructed for the payment of balance Cess amount of Rs.7,45,784/-. Again he has issued Show Cause Notice to the same employer vide Notice A/ 3308/ 2017, Dt.13.11.2022. The JCL, Vishakapatnam has again issued Cess assessment order (Revised) on 09.09.2022 by reiterating the earlier order and directed to pay the Cess amount of Rs.7,45,784/- to the same employer. Again he has issued notice under Sec. 4 (2) notice under BOCW Cess Act, vide A/3308/2017, Dt. 25.01.2023 and finally a recovery petition was filed vide A/3308/2017 dated 11.10.2023 for an amount of Rs.8,45,78,394/- instead of Rs.7,45,784/- as the employer has already paid Rs.1,00,000/-.

The then Jt. Commissioner of Labour, Visakhapatnam has not initiated further action for recovery of Cess amount as an arrear of land revenue under Section 10 of BOCWW Cess Act, 1996 read with rule 13 of BOCW Cess Rules 1998 about two years after issuing of assessment order and on completion of appeal period of 3 months, as per Rule 14 of BOCW Cess Rules 1998.

In view of the above Sri M. Rama Rao, while working as Joint Commissioner of Labour, Visakhapatnam failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Article II

That the said Sri M.Rama Rao while working as Joint Commissioner of Labour, Visakhapatnam failed to issue and serve notices for collecting cess amount as per the Vigilance Alert note No.259 as due from the employers/contractors (namely M/s MVV Builders, Visakhapatnam) in 12 Establishments which costs a total construction cost of Rs. 99,63,97,000/- and a Cess of Rs. 99,63,970/- which is due from the above employer / contractor and the same was not collected and not taken any steps for realization of the said amount and thereby failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge

Grounds:-

As per the instructions of the Commissioner of Labour, an inspection team headed by the Joint Commissioner of Labour, Head Office along with Superintendent and certain ministerial staff inspected the O/o of Joint Commissioner of Labour, Visakhapatnam on 05-12-2023 to 08-12-2023 and observed certain lapses in issuing notices to all the employers/contractors of the establishments under BOCW Act, 1996 & BOCW Cess Rules,1998 on collection of Cess. Subsequently the JCL(FAC), Visakhapatnam has submitted a detailed note on 14-12-2023 and a rejoinder dated 18-12-2023 on the action taken by the then Jt. Commissioner of Labour, Visakhapatnam, on the Vigilance Alert notes the above lapses are noticed.

Out of the amount of Cess Rs. 99,63,970/- as due, in the above 12 establishments 68 general notices were issued and Four (4) section 4 (2) notices were issued by the JCLs who worked in the zone and in 1 (one) establishment for an amount of Rs.4,4,123/-no notice or assessment order was issued. During the period of working of Sri M.Rama Rao as JCL, Visakhapatnam since 16.07.2021 to 30.06.2022 as FAC and from 01.07.2022 on regular basis no amount was realized from the said employer / contractor. It is observed that no proper follow up action was taken by the said officer as per rules in force against the employer/contractor.

In view of the above Sri M. Rama Rao, while working as Joint Commissioner of Labour, Visakhapatnam failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Article III

That the said Sri M.Rama Rao while working as Joint Commissioner of Labour, Visakhapatnam, failed to file petition under Revenue Recovery Act before the District Collector, Visakhapatnam within the stipulated time under Section 10 of BOCW Cess Act,1996 and Rule 13 of APBOCW Cess Rules 1998. As per Vigilance Alert Note No. 59, the Employer/Contractor(MVV Builders)has made construction works namely **"Levelling of site"** with the construction cost of Rs.116,12,64,835/- on which 1% Cess amount of Rs. 1,16,12,648/- has to be collected. But only

Rs.2,50,000/- was collected from the contractor on 11.08.2016. The Joint Commissioner of Labour issued Assessment order on 18.11.2021 for an amount of Rs.1,13,62,648/-. Without filing the petition under RR Act, he has again issued general notice on 21.09.2022. Subsequently he filed petition under RR Act before the District Collector for an amount of Rs.1,13,62,648/- which shows delay in filing petition under RR Act. by Sri M. Rama Rao, the then Joint Commissioner of Labour, Visakhapatnam and thereby he failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Grounds:-

As per the instructions of the Commissioner of Labour, an inspection team headed by the Joint Commissioner of Labour, Head Office along with Superintendent and a certain ministerial staff inspected the O/o of Joint Commissioner of Labour, Visakhapatnam on 05-12-2023 to 08-12-2023 and observed certain lapses in issuing notices to all the employers/contractors of the establishments under BOCW Act, 1996 & BOCW Cess Rules 1998,on collection of Cess. Subsequently the JCL(FAC), Visakhapatnam has submitted a detailed note on 14.12.2023 and a rejoinder dated 18.12.2023 on the action taken by the then Jt. Commissioner of Labour, Visakhapatnam, on the Vigilance Alert notes the above lapses are noticed.

As seen from the above report of the JCL(FAC), Visakhapatnam and also as reported by the JCL Head Office, the Jt. Commissioner of Labour issued assessment order on 18.11.2021 for an amount of Rs.1,13,62,648/- to the employer / contractor for **"Levelling of site".** As per Section 11 of BOCW Cess Act 1996 read with rule 14 (1) of BOCW Cess Rule 1998, within three months the employer / contractor may file appeal against the assessment order before the appellate authority. Though the employers has not preferred the appeal within the stipulated time, the then JCL, Visakhapatnam has not taken further action as per Section 10 read with Rule 13 of BOCW Cess Act 1996 and BOCW Cess Rules 1998 for recovery of amount by filing Revenue recovery petition before the Collector and issued another general notice.

In view of the above Sri M.Rama Rao, while working as Joint Commissioner of Labour, Visakhapatnam failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Article-IV

That the said Sri M.Rama Rao while working as Joint Commissioner of Labour, Visakhapatnam, failed to issue /serve notices to the employer/ contractor (M/s MVV Builders, Visakhapatnam). As per the Vigilance alert Note no.59, a contract work namely **"Earth work"** done by the employer / contractor (M/s MVV Builders, Visakhapatnam) which amounts to a total Cost of Rs.115,58,08,742/- for which the Cess amounts to Rs. 1,15,58,087/- is to be collected. The JCL, Visakhapatnam has not issued any notices to the contractor where such a huge amount of revenue is due to the government exchequer, and thereby failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Grounds:-

As per the instructions of the Commissioner of Labour, an inspection team headed by the Joint Commissioner of Labour, Head Office along with Superintendent and certain ministerial staff inspected the O/o of Joint Commissioner of Labour, Visakhapatnam on 05-12-2023 to 08-12-2023 and observed

certain lapses in issuing notices to all the employers/contractors of the establishments under BOCW Act, 1996 & BOCW Cess Rules,1998 on collection of Cess. Subsequently the JCL(FAC), Visakhapatnam has submitted a detailed note on 14-12-2023 and a rejoinder dated 18-12-2023 on the action taken by the then Jt. Commissioner of Labour, Visakhapatnam, on the Vigilance Alert notes the above lapses are noticed.

As per Section 5(2) of the BOCW Cess Act 1996 and read with Rule7(5) of BOCW Cess Rules 1998, if the employer fail to furnish the information of returns in Form-I the assessing officer after making an enquiry shall proceed to issue assessment order.

In view of the above Sri M. Rama Rao, while working as Joint Commissioner of Labour, Visakhapatnam failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Article V

The then Jt.Commissioner of Labour, Visakhapatnam was communicated a total of 25 Vigilance alert notes comprising 330 establishments in Zone-I having a total Cess demand of Rs.136.45 crores. He has issued notices under BOCW Cess Act 1996, to 290 establishments only leaving the remaining 40 establishments without any notice so far. The JCL, Visakhapatnam has not issued any notices to the contractor where such a huge amount of revenue is due to the government exchequer, and thereby failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Grounds

As per the instructions of the Commissioner of Labour, an inspection team headed by the Joint Commissioner of Labour, Head Office along with Superintendent and certain ministerial staff inspected the O/o of Joint Commissioner of Labour, Visakhapatnam on 05-12-2023 to 08-12-2023 and observed certain lapses in issuing notices to all the employers/contractors of the establishments under BOCW Act, 1996 & BOCW Cess Rules,1998 on collection of Cess. Subsequently the JCL(FAC), Visakhapatnam has submitted a detailed note on 14-12-2023 and a rejoinder dated 18-12-2023 on the action taken by the then Jt. Commissioner of Labour, Visakhapatnam, on the Vigilance Alert notes the above lapses are noticed.

Among the notices issued 158 were served and 132 notices were not served. Out of 158 establishment for which notices were issued, assessment orders were issued to 34 establishments only and for the remaining 124 establishments assessment orders were not issued. Out of 34 assessment orders issued for 19 establishments, petition were filed under RR Act before the District collector for recovery of amounts.

As observed from the above notices were not at all issued to the establishments and for the notices which were not served, no further action was taken. This shows lack of pursuance in the official matter on part of the Officer concerned i.e Sri M. Rama Rao, the then JCL, Visakhapatnam hence failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Article VI

The then Jt. Commissioner of Labour, Visakhapatnam Sri M. Rama Rao, was communicated a total of 25 Vigilance alert notes comprising 330 establishments in the Zone having a total Cess demand of Rs.136.45 Crores. He has issued notices under BOCW Cess Act 1996, to 290 establishments only out of which notices were served to 158 establishments and the remaining 132 notices were not served. Among the notices served, assessment orders were issued for 34 establishments only and for 124 establishments no assessment orders were issued. When such a huge amount is due for collection under the BOCW Cess Act, 1996, the then Jt. Commissioner of Labour, Visakhapatnam Sri M. Rama Rao, did not show serious concern for realization of the said amounts from the employers of the establishments. This shows slackness on part of the Officer concerned i.e Sri M. Rama Rao, the then JCL, Visakhapatnam, towards realization of the Cess amount and hence failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

Grounds:

As per the instructions of the Commissioner of Labour, an inspection team headed by the Joint Commissioner of Labour, Head Office along with Superintendent and certain ministerial staff inspected the O/o of Joint Commissioner of Labour, Visakhapatnam on 05.12.2023 to 08.12.2023 and observed certain lapses in issuing notices to all the employers/contractors of the establishments under BOCW Act, 1996 & BOCW Cess Rules,1998 on collection of Cess. Subsequently the JCL(FAC), Visakhapatnam has submitted a detailed note on 14.12.2023 and a rejoinder dated 18-12-2023 on the action taken by the then Jt. Commissioner of Labour, Visakhapatnam, on the Vigilance Alert notes the above lapses are noticed.

The then Jt. Commissioner of Labour, Visakhapatnam Sri M. Rama Rao, was communicated a total of 25 Vigilance alert notes comprising 330 establishments in the Zone having a total Cess demand of Rs.136.45 Crores. He has issued notices under BOCW Cess Act 1996, to 290 establishments only out of which notices were served to 158 establishments and the remaining 132 notices were not served. Among the notices served. Assessment orders were issued for 34 establishments only and for 124 establishments no assessment orders were issued. When such a huge amount is due for collection under the APBOCW Cess Act, 1996, the officer concerned did not show serious concern for realization of the said amounts from the employers of the establishments.

In view of the above Sri M. Rama Rao, while working as Joint Commissioner of Labour, Visakhapatnam failed to display devotion to duty, integrity and therefore committed misconduct and hence this charge.

DR. M. HARI JAWAHARLAL
SECRETARY TO GOVERNMENT

G. Gurunadh
SECTION OFFICER

ANNEXURE-II

List of documents in support of article of charges framed against Sri M.Rama Rao, the then Joint Commissioner of Labour, Visakhapatnam are proposed to be sustained.

1. Report submitted by the Inspection Team of the O/o the Commissioner of Labour, Vijayawada.
2. Notes submitted by Sri A. Ganeshan, Jt. Commissioner of Labour (FAC), Visakhapatnam.

ANNEXURE-III

List of witnesses by whom the article of charges framed against Sri M.Rama Rao, the then Joint Commissioner of Labour, Visakhapatnam enquiry are proposed to be sustained.

1. Sri S.Lakshminarayana, Jt. Commissioner of Labour, O/o the Commissioner of Labour, Vijayawada.
2. Sri A.Ganeshan, Jt. Commissioner of Labour (FAC), Visakhapatnam.
3. Sri B.AnandPaul, Superintendent, O/o the Commissioner of Labour, Vijayawada.
4. Sri Vamsee Krishna Kanth, Sr.Assistant, O/o the Commissioner of Labour, Vijayawada.

DR. M. HARI JAWAHARLAL
SECRETARY TO GOVERNMENT

G. Gurunadh
SECTION OFFICER